

## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on the Transport of Dangerous Goods

Joint Meeting of the RID Committee of Experts and the  
Working Party on the Transport of Dangerous Goods

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Item 4 of the provisional agenda

Interpretation of RID/ADR/ADN

17 February 2015

### Interpretation concerning 1.1.3.3 (c), machinery and equipment

#### Transmitted by the Government of Sweden

##### *Summary*

<b>Executive summary:</b>	Carriage of machinery or equipment containing liquid fuel may be covered by sub-section 1.1.3.3 (c) if the machinery or equipment falls under the definition of “non-road mobile machinery”. However, the definition is not stated directly in 1.1.3.3. Instead, two other regulations are referenced where the scope of this definition is not completely identical.
<b>Action to be taken:</b>	Interpretation of the scope of 1.1.3.3 (c) and its relation to special provision 363.
<b>Related documents:</b>	96th session of WP.15, INF.34 (European Union) Definition of non-road mobile machinery.

## Background

When carrying machinery or equipment containing flammable liquids (UN 1202, 1203, 1223, 1268, 1863 and 3475), the consignor/carrier may find the following entries in RID/ADR/ADN for such carriage:

- UN 3363 see also 1.1.3.1 (b).
- 1.1.3.1 (b) if not specified anywhere else, see also SP 363.
- 1.1.3.3 (c) if contained in non-road mobile machinery fulfilling the definition referred to in the footnote, and carried as a load.
- SP 363 when exceeding limited quantities and if not covered by 1.1.3.3 (c).

UN 3363 is not subject to RID/ADR/ADN since the provisions in 1.1.3.1 (b) apply instead. Sub-section 1.1.3.1 (b) states that these provisions do not apply if the machinery or equipment is specified anywhere else in the same annex. Machinery or equipment containing e.g. UN 1202 is specified in either 1.1.3.3 (c) or in SP 363.

Sweden believes that the majority of the consignors/carriers of these kinds of machinery are not regular consignors/carriers of dangerous goods and, thus, not very familiar with the provisions in RID/ADR/ADN. All these various exemptions for machinery and equipment are difficult to follow and comply with. However, in this paper we have chosen to focus on 1.1.3.3 (c). If our questions concerning 1.1.3.3 (c) are sorted out, this would automatically clarify the scope of special provision 363.

## Introduction

Sweden believes that the scope of the definition for “non-road mobile machinery” differs between R.E.3 and Directive 97/68/EC.

1.1.3.3 (c) states the following:

*"Fuel contained in the tanks of non-road mobile machinery<sup>1</sup> which is carried as a load, when it is destined for its propulsion or the operation of any of its equipment. The fuel may be carried in fixed fuel tanks connected directly to the vehicle engine and/or equipment and which meet the legal requirements. Where appropriate, this machinery shall be loaded upright and secured against falling.*

<sup>1</sup> For the definition of non-road mobile machinery see paragraph 2.7 of the Consolidated Resolution on the Construction of Vehicles (R.E.3) (United Nations document ECE/TRANS/WP.29/78/Rev.3) or Article 2 of Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (Official Journal of the European Communities No. L 059 of 27 February 1998)."

The footnote in 1.1.3.3 (c) contains two references to the definition of non-road mobile machinery which are, in short; para. 2.7 of the Consolidated Resolution on the Construction of Vehicles (R.E.3) and Article 2 of Directive 97/68/EC. Both state the same wording except for what is underlined and marked in yellow below:

**Paragraph 2.7 of the Consolidated Resolution on the Construction of Vehicles (R.E.3)**

”Non-road mobile machinery”: Any mobile machine, transportable industrial equipment or vehicle with or without body work, not intended for the use of passenger- or goods-transport on the road, in which an internal combustion engine is installed.”

**Article 2 of Directive 97/68/EC**

“— *non-road mobile machinery* shall mean any mobile machine, transportable industrial equipment or vehicle with or without body work, not intended for the use of passenger- or goods-transport on the road, in which an internal combustion engine as specified in Annex I section 1 is installed, “

The difference between the two definitions is that Directive 97/68/EC refers to further specifications in Annex I. Annex I, section 1 states that it applies to all engines to be installed in non-road mobile machinery and to secondary engines fitted into vehicles intended for passenger or goods transport on the road. There are also some references to other Directives included which specify engines that are not covered.

Additionally, in order for machinery to be covered by Directive 97/68/EC, the engine have to be installed in machinery which meets specific requirements (see appendix to this document). These requirements specify the permitted net power intervals (kW) for the engine and how it shall be operated; under intermittent speed or a constant speed.

Consequently, we believe the scope of the definition for “non-road mobile machinery” differs between R.E.3 and Directive 97/68/EC. According to the wording in the footnote, either reference seems feasible to apply. This would mean that if the definition in R.E.3 is used this has a wider scope, since no further specifications than the definition is included. However, if choosing the definition in Directive 97/68/EC, this contains detailed specifications of what is covered.

Nevertheless, at the 96<sup>th</sup> session of WP.15, the European Union presented an informal document, INF.34, where they clarified their view on the definition in the Directive versus R.E.3, and that for the purposes of ADR the two definitions are identical and that either of them is applicable.

## Interpretation

Even though Sweden would like to share the view of the European Union, that the two definitions are identical what concerns the application of ADR, we cannot see that this is totally clear for a user of these provisions. For this reason, we find it important to address the issue to the Joint-meeting. Depending on the outcome Sweden might come back with a formal proposal at the next Joint Meeting with the aim to clarify the text.

Sweden would like the opinion of the Joint-meeting concerning the following two issues:

1. Would the meeting agree that, for the purposes of ADR/RID/ADN, the meaning of the definition of “non-road mobile machinery” is identical in R.E.3 and the Directive 97/68/EC and, thus, the reference to Annex I Section 1 in the Directive is not applicable?
2. From our point of view, machinery such as a generator, compressor or a heating unit having an internal combustion engine is exempted according to 1.1.3.3 (c). However, these

are also exemplified in special provision 363. This adds to the difficulties to clarify what kind of machinery and equipment that are exempted according to 1.1.3.3 (c) and, consequently, do not fall under special provision 363.

It seems that special provision 363 only covers machinery and equipment, containing UN 1202, 1203, 1223, 1268, 1863 and 3475, which do not have an internal combustion engine such as e.g. a power supplied diesel heater.

We would like to know if the Joint-meeting agrees on our opinion stated above. We would also be very grateful for further examples of machinery and equipment that falls under SP 363.

## **Justification**

It would be helpful to have a clear picture concerning the application of sub-section 1.1.3.3 (c) before the next meeting concerning Harmonization of RID/ADR/ADN with the UN Recommendations on TDG in April. The exemption in 1.1.3.3 (c) is closely connected to special provision 363, which is also included in the UN Model Regulations (with a slightly modified wording). At the meeting concerning Harmonization there are new UN-numbers for different kinds of machinery and equipment that will be discussed.

## Appendix

### Excerpt

### Directive 97/68/EC

ANNEX I, section 1

1997L0068 — EN — 01.01.2007 — 005.001 — 25

#### ▼B

#### ANNEX I

#### SCOPE, DEFINITIONS, SYMBOLS AND ABBREVIATIONS, ENGINE MARKINGS, SPECIFICATIONS AND TESTS, SPECIFICATION OF CONFORMITY OF PRODUCTION ASSESSMENTS, PARAMETERS DEFINING THE ENGINE FAMILY, CHOICE OF THE PARENT ENGINE

#### 1. SCOPE

#### ▼M2

This Directive applies to all engines to be installed in non-road mobile machinery and to secondary engines fitted into vehicles intended for passenger or goods transport on the road.

#### ▼B

This Directive does not apply to engines for the propulsion of:

- vehicles as defined by Directive 70/156/EEC <sup>(1)</sup>, and by Directive 92/61/EEC <sup>(2)</sup>,
- agricultural tractors as defined by Directive 74/150/EEC <sup>(3)</sup>.

Additionally, in order to be covered by this Directive, the engines have to be installed in machinery which meets the following specific requirements:

#### ▼M3

A. intended and suited, to move, or to be moved with or without road, and with

- (i) a C.I. engine having a net power in accordance with section 2.4. that is higher than or equal to 19 kW but not more than 560 kW and that is operated under intermittent speed rather than a single constant speed; or
- (ii) a C.I. engine having a net power in accordance with section 2.4. that is higher than or equal to 19 kW but not more than 560 kW and that is operated under constant speed. Limits only apply from 31 December 2006; or
- (iii) a petrol fuelled S.I. engine having a net power in accordance with section 2.4. of not more than 19 kW; or
- (iv) engines designed for the propulsion of railcars, which are self propelled on-track vehicles specifically designed to carry goods and/or passengers; or
- (v) engines designed for the propulsion of locomotives which are self-propelled pieces of on-track equipment designed for moving or propelling cars that are designed to carry freight, passengers and other equipment, but which themselves are not designed or intended to carry freight, passengers (other than those operating the locomotive) or other equipment. Any auxiliary engine or engine intended to power equipment designed to perform maintenance or construction work on the tracks is not classified under this paragraph but under A(i).

#### ▼M2

The Directive is not applicable for the following applications:

<sup>(1)</sup> OJ L 42, 23.2.1970, p. 1. Directive as last amended by Directive 93/81/EEC (OJ L 264, 23.10.1993, p. 49).

<sup>(2)</sup> OJ L 225, 10.8.1992, p. 72.

<sup>(3)</sup> OJ L 84, 28.3.1974, p. 10. Directive as last amended by Directive 88/297/EEC (OJ L 126, 20.5.1988, p. 52).

**▼M3**

B. ships, except vessels intended for use on inland waterways;

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**▼M2**

D. aircraft;

E. recreational vehicles, e.g.

— snow mobiles,

— off road motorcycles,

— all-terrain vehicles

**▼B**

2. DEFINITIONS, SYMBOLS AND ABBREVIATIONS

For the purpose of this Directive,

- 2.1. *compression ignition (C.I.) engine* shall mean an engine which works on the compression-ignition principle (e.g. diesel engine):
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